

### **REMARKS**

The applicant has had an opportunity to carefully consider the Examiner's Office Action of July 8, 2003 and believes this amendment is fully responsive to every point raised by the Examiner. Reconsideration of the application, as amended is respectfully requested. Claims 1-36 remain in the application after this amendment is entered.

### **THE OFFICE ACTION:**

Claims 5-8, 26 and 27 stand rejected under 35 U.S.C. § 112 second paragraph, for indefiniteness.

Claims 1-36 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 4,181,838 to Neuser et al.

### **THE NON-ART REJECTIONS:**

### **CLAIMS 5-8, 26 AND 27 PARTICULARLY POINT OUT AND DISTINCTLY CLAIM SUBJECT MATTER THE APPLICANT REGARDS AS THE INVENTION**

The Examiner rejected claims 5-8 for indefiniteness due to an antecedent basis problem for "switch element" in line 1 of each of the claims. As amended, claims 5-8 now identify "said power switch lever" instead of the "switch element". Proper antecedent basis for the power switch lever is provided in claim 1. Therefore, this rejection for indefiniteness is no longer appropriate.

The Examiner rejected claims 26 and 27 for indefiniteness due to the phrase "fist and second positions" in line 2 of the claims. Claims 26 and 27 have been amended to replace "fist" with "first". Therefore, this rejection for indefiniteness is no longer appropriate.

## **THE ART REJECTIONS:**

### **CLAIMS 1-36 PATENTABLY DISTINGUISH OVER NEUSER**

The Examiner has rejected claims 1-36 under 35 U.S.C. 102(b) as anticipated by Neuser. Neuser discloses an actuating mechanism for a power switch having three positions and including an auxiliary switch. More specifically, the mechanism includes a “tripped” position intermediate an “on” position and “off” position” (Abstract, col. 3, lines 49-58).

The auxiliary switch in Neuser operates in conjunction with an auxiliary circuit. The purpose of the auxiliary circuit is to detect faults such as overvoltage or undervoltage conditions, short circuits and/or overloads. When a fault condition is detected, the mechanism is moved from the “on” position to the “tripped” position, disconnecting power from any load connected to the power switch. After tripping, it is necessary to reset the power switch by first switching back again to the “off” position before setting the power switch to the “on” position (col. 4, lines 43-48 and 60-63). Notably, the auxiliary switch in Neuser is activated while the mechanism is moved from the “off” position to the “on” position before the power switch applies power to the load (col. 4, lines 35-42). As stated at col. 4, lines 39-42, “were this not the case, if the power switch were to reach its switch-on position before switch 44 in the auxiliary circuit, tripping would immediately occur and, as a result, the power switch would switch-off”. Moreover, when the power switch is tripped, power is removed from the load and the mechanism is moved from the “on” position to the “tripped” position. When the mechanism reaches the “tripped” position, the auxiliary switch is deactivated (col. 4, lines 43-59).

Thus, in Neuser the auxiliary switch is activated before power is applied to the load and deactivated after power is removed from the load. Conversely, the mechanical power switch in the present invention includes an auxiliary switch that is activated after the electrical contacts of the switch are closed and deactivated before the electrical contacts of the switch are opened.

Independent claims 1 and 24, as well as dependent claims 5-8, have been amended to emphasize the foregoing distinction with more clarity. Therefore, the applicant respectfully submits that independent claims and claims dependent thereon

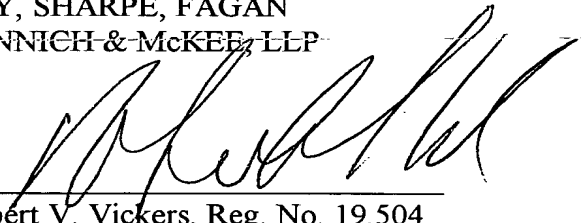
(claims 2-23), as well as independent claim 24 and claims dependent thereon (claims 25-36), are currently in condition for allowance.

**CONCLUSION**

In view of the above amendments and remarks, the applicant submits that the present application is in condition for allowance. Notice of such allowance is hereby respectfully requested.

Respectfully submitted,

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